

MINUTES

MONTANA SENATE 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN JEFF MANGAN**, on February 17, 2005 at 3:15 P.M., in Room 102 Capitol.

ROLL CALL

Members Present:

Sen. Jeff Mangan, Chairman (D)
Sen. John Esp (R)
Sen. Kelly Gebhardt (R)
Sen. Kim Gillan (D)
Sen. Bob Hawks (D)
Sen. Rick Laible (R)
Sen. Lynda Moss (D)
Sen. Jerry O'Neil (R)
Sen. Jim Shockley (R)
Sen. Carolyn Squires (D)
Sen. Mike Wheat (D)

Members Excused: None.

Members Absent: None.

Staff Present: Jennifer Kirby, Committee Secretary
Leanne Kurtz, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 370, 2/8/2005; SB 237,
1/19/2005; SB 350, 2/3/2005; SB
382, 2/12/2005; SB 458, 2/12/2005
Executive Action: SB 350; SB 370; SB 237; SB 382; SB
309; SB 253; SB 458; SB 301; SB 167

HEARING ON SB 370

{Tape: 1; Side: A; Approx. Time Counter: 3}

Opening Statement by Sponsor:

SEN. CAROLYN SQUIRES (D), SD 48, opened the hearing on **SB 370**, Detention officers included in sheriffs' retirement system.

{Tape: 1; Side: A; Approx. Time Counter: 3 - 6.2}

SEN. SQUIRES told the committee that the county detention officers were the only criminal justice law enforcement officers that are left out of the twenty-year retirement. **SEN. SQUIRES** explained that county detention officers were the only front-line officers not on a twenty-year system. She said that recruitment was more difficult and turnover rates are higher. **SEN. SQUIRES** contended that with a twenty-year system, training costs would be reduced as the detention centers would retain good people and the turnover would be reduced.

Proponents' Testimony:

{Tape: 1; Side: A; Approx. Time Counter: 6.2 - 28.6}

Jim Cashell, Gallatin County Sheriff's Office and Montana Sheriffs and Peace Officers Association, told the committee that the effects would be far-reaching and numerous people had driven several hours to testify. He handed out a packet with the proposal in it.

EXHIBIT(los39a01)

He told the committee that there were some questions on the fiscal note. It stated that all detention officers would transfer to the Sheriff's Retirement. **Mr. Cashell** disagreed because it would be cost prohibitive for many of the officers to transfer, especially if they had been on the force for five years. He assured the committee that if they wanted to transfer, they would have to pay for it. **Mr. Cashell** informed the committee that the cost to the officers and county would go up but there was no third-party in the retirement system. **Mr. Cashell** noted that part-time employees could be a part of the system because many small counties required that officers do more than just detention. He told the committee that the Sheriff's Retirement System was one of the soundest systems in the state and that new members would not materially alter the deficiencies. He commented that because of the market forces, there may be a need to

increase contributions. He handed out a copy of the Montana Code Annotated.

EXHIBIT (los39a02)

He told the committee that there was an issue that Detention Officers were not certified and he proved that they were.

Raymond Glendening, American Federation of State, County, and Municipal Employees Council 9, stood in support of **SB 370**.

Sheenagh Lee, Dawson County Sergeant, noted that the bill would reduce the wages paid by counties. She said that over a 30-year term, the highest paid employee works for an additional ten years rather than retiring at twenty years and being replaced by a lower-wage employee. That was a \$40,000 a year savings per employee in just one county. She acknowledged that it would cost \$500 dollars more in retirement contributions but they would be more likely to retain good employees. She said that it costed \$5,000 to train a new employee and the turnover rate would be lower so there would be reduced training costs. **Ms. Lee** informed the committee that there was a provision in the Sheriff's retirement for work-related disability and an injured officer would receive \$2,700 verses \$240. She stated that detention officers were certified and trained. She told the committee that detention officers had a more dangerous job than street officers because ninety-nine percent of the people that they dealt with were convicted felons and violent criminals. **Ms. Lee** noted that there was also a danger of blood-borne pathogens.

Dennis McCave, Yellowstone City Sheriff, said that a twenty-year term is appropriate for the high-risk and high-stress job that detention officers do. He noted that the state detention officers were on a twenty-year retirement plan and the counties should as well. **Mr. McCave** told the committee that it was hard to retain detention officers and they needed to level the playing field.

Matt Thiel, Detention Officer Association of Missoula County, supported **SB 370**.

Gene Fenderson, Laborers' Union, told the committee that detention officers needed help and it was important to pass the bill.

Kathy Frame, Flathead County Sheriff, informed the committee that she and four members of her staff came to testify on their own time and at their own expense. She wanted to retain staff. She said it was bad for the criminals to have more years experience in Montana jails than the officers did.

Anita Tymrak, Gallatin County Sheriff, supported **SB 370** because line officers needed a twenty-year retirement plan.

Don Judge, Teamsters Local 190, stood in strong support of **SB 370**.

Dave Walsh, Detention Officer Flathead County, said that the bill was about fairness. He told the committee that he was a twenty-five year veteran and gained nothing from the legislation. He was testifying for the young officers. He said that if he had a twenty-year retirement plan, he would be retired.

Chaplain Sam Kinser, Yellowstone City Sheriff, said that the detention officers did not last long in the jails and deserved a twenty-year retirement plan.

Opponents' Testimony:

{Tape: 1; Side: A; Approx. Time Counter: 28.6 - 30.7}

{Tape: 1; Side: B; Approx. Time Counter: 0 - 13.4}

Kelly Jenkins, Public Employees Retirement Board, read his testimony into the record.

EXHIBIT(los39a03)

Mr. Jenkins handed out a packet summarizing the Montana Public Employee's Retirement Plan.

EXHIBIT(los39a04)

Terry Teichrov, Public Employees Retirement Board, said that it was confusing who would be allowed into the system and the bill needed to redefine it. He believed that it would be more appropriate to put the detention officers in the game warden's and Peace Officer's retirement plans, instead of the sheriff's retirement plan.

Informational Testimony: None.

Questions from Committee Members and Responses:

{Tape: 1; Side: B; Approx. Time Counter: 13.4 - 22.2}

SEN. ESP asked how the officers buy their way into the system. **Mr. Jenkins** answered that they could elect in, and if they were part of a retirement plan currently, they could transfer their time in at a higher cost. **SEN. ESP** wanted to know if that

provision was in the bill. **Mr. Jenkins** responded that it was a provision in law.

SEN. WHEAT questioned **Mr. Blattie** if he had heard what **Mr. Jenkins** said about costing the counties millions of dollars. **Mr. Blattie** responded that his membership was divided on the bill and so he did not speak on **SB 370**. **SEN. WHEAT** wanted to know if he agreed or disagreed with the **Mr. Jenkin's** analysis. **Mr. Blattie** answered that he had no fiscal analysis.

SEN. GEBHARDT wanted to know if a detention officer was identified as such. **Mr. Cashell** responded that the contracts and payroll defined officers as detention officers. **SEN. GEBHARDT** questioned about pay rates. **Mr. Cashell** said that payroll identified someone as a detention officer or not.

SEN. GEBHARDT asked **Mr. Jenkins** if an officer transferred their time to the Sheriff's Retirement system, they could trade a two for one deal from one retirement system to the other. **Mr. Jenkins** answered yes.

SEN. HAWKS questioned if **Mr. Cashell** was aware of the deficiencies in the sheriff's retirement system. **Mr. Cashell** replied that he had not seen the document before and that they were relying on the fiscal note.

SEN. MANGAN wanted to know if **Mr. Cashell** was testifying on behalf of the association or in his role as Sheriff of Gallatin county. **Mr. Cashell** answered that he was speaking on behalf of both the Members of Association of Sheriffs and Peace Officers Associaiton and in his role as Sheriff. He noted that **SB 370** was the association's number one priority.

Closing by Sponsor:

{Tape: 1; Side: B; Approx. Time Counter: 22.2 - 24.1}

SEN. SQUIRES called **SB 370** a golden opportunity for younger officers to transfer to a good system. She said the detention officers had a hard job and deserved a twenty-year retirement. She noted that the Sheriffs and Peace Officer's Associaiton supported **SB 370** and it was important for the committee to support the group.

HEARING ON SB 237

{Tape: 2; Side: A; Approx. Time Counter: 0.8}

Opening Statement by Sponsor:

SEN. DAN WEINBERG (D), SD 2, opened the hearing on **SB 237**, Allow fee structures, projected fees to be used in selecting certain services.

{Tape: 2; Side: A; Approx. Time Counter: 0.8 - 6.2}

SEN. WEINBERG explained that currently local agencies and special districts that hire architects, engineers, and surveyors are not allowed to consider prices when they hire, they can only consider qualifications. He noted that it was good for the specialists but bad for municipalities. **SB 237** allowed local agencies and special districts to consider costs. He told the committee that he had worked out an amendment with the architects and engineers.

EXHIBIT(los39a05)

SEN. WEINBERG said that was the compromise on the bill. He asked where else is one not allowed to ask costs. He commented that services should not be gauged by what the cost is. He stated that it is more capitalistic and only fair.

Proponents' Testimony:

{Tape: 2; Side: A; Approx. Time Counter: 6.2 - 25.7}

SEN. JOHN BRUEGGEMAN, SD 6, **POLSON**, supported **SB 237** on behalf of the City of Polson. He said that the city would like to compare engineers by cost.

Gary Marks, City of Whitefish, read his testimony into the record.

EXHIBIT(los39a06)

Mr. Marks submitted a packet containing letters of support from Montana cities and counties.

EXHIBIT(los39a07)

Eric Garberu, City of Whitefish, told the committee that the status quo did not work. He said that private infrastructure had the same level of quality in work and yet, private employers do

ask costs. He questioned the objectivity of the opponents. He asked why they would fear a competitive bid and the pursuit of the best value. He declared that opponents were not afraid of the loss of quality work, but feared having to provide it at a quality price.

Doug Adams, City of Whitefish, read his testimony into the record.

[EXHIBIT](#)(los39a08)

SEN. MANGAN exited.

Opponents' Testimony:

{Tape: 2; Side: A; Approx. Time Counter: 25.7 - 31.9}

{Tape: 2; Side: B; Approx. Time Counter: 1 - 15.6}

Jay Skoog, ACEC Montana, read his testimony into the record.

[EXHIBIT](#)(los39a09)

William Grant, Montana American Institute of Architects, opposed the bill because the status quo of Qualification Based Selection (QBS) worked in 48 states. He said that if the lowest bid was used, there would be a significant reduction in quality. He gave the committee a packet with information on QBS.

[EXHIBIT](#)(los39a10)

Karen Fagg, HKM Engineering, read her testimony into the record.

[EXHIBIT](#)(los39a11)

Brent Campbell, NGM Engineering, explained the history of QBS. He told the committee that other cost-based processes were tried and they did not work. In 2000, the code was updated and made qualifications the number one priority and cost was secondary. He note that current Montana law is the same as federal law.

Jani McCall, City of Billings, told the committee that the Billings city council had voted 6 to 5 to oppose the bill.

Susan Bjerke, Architectural Society of Helena, stood in opposition to **SB 237**.

Jerry Ballas, Missoula Architect, opposed **SB 237**.

Julie Shewman, American Society of Civil Engineers of Montana, gave her testimony to the committee.

EXHIBIT(los39a12)

Roger Foster submitted his written testimony.

EXHIBIT(los39a13)

Dave Zatile stood in opposition to the bill.

Jim Kembel, Montana Association of Registered Land Surveyors, opposed SB 237.

Informational Testimony:

{Tape: 2; Side: B; Approx. Time Counter: 15.6 - 16.3}

Ross Katherman, State Department of Administration Architects & Engineering Division, told the committee that he was available for questions.

Questions from Committee Members and Responses:

{Tape: 2; Side: B; Approx. Time Counter: 16.3 - 31.2}

{Tape: 3; Side: A; Approx. Time Counter: 0 - 1.9}

SEN. WHEAT asked **Mr. Katherman** to describe the process of QBS. **Mr. Katherman** explained that the department submitted an advertisement for a project, then professionals submitted their qualifications and department made a short list of 3 firms. Next the director of the department of administration made the final selection and began a discussion of costs. **SEN. WHEAT** wanted to know if QBS worked. **Mr. Katherman** answered that it had worked and occasionally, a firm and the Department could not agree on price but most of the time, it worked well.

SEN. HAWKS questioned **Mr. Marks** why he was uncomfortable with the process. **Mr. Marks** responded that agencies did not know the competitive price. **SEN. HAWKS** asked whether the firms were unwilling to negotiate. **Mr. Marks** answered that they did that now because it was the law.

SEN. HAWKS asked if **Mr. Marks** commissioned a personal painting, what he would consider. **Mr. Marks** said that he would look at both quality and price.

SEN. GILLAN wanted to know what happened if the firm and Department could not negotiate a price. **Mr. Katherman** stated that the Director would choose one of the other two short-listed firms.

SEN. O'NEIL wanted to know why **Mr. Whiteside**, the designer of the capitol, had broke from the QBS system. **Mr. Grant** said he was not familiar with the set of circumstances but assumed that it was a negotiation in the system.

SEN. SHOCKLEY asked if QBS was used for the project on the Capitol steps. **Mr. Grant** deferred to **Mr. Katherman**. **Mr. Katherman** answered that it was.

SEN. SHOCKLEY noted that it did not work well because people could not use the front door. **Mr. Katherman** said it was an issue with security and should be referred to them.

SEN. LAIBLE wanted to know what would happen if the price process came before the qualified process. **Mr. Katherman** answered that the Director relied on the recommendation of the building committee and there would be no opportunity to sit down with the firm and give a scope. He guessed that the firms would have to give a range of cost.

SEN. LAIBLE asked if the Department had the ability to reject non-qualified bidders. **Mr. Katherman** answered affirmatively. **SEN. LAIBLE** wanted to know if the Department had to take the lowest bidder. **Mr. Katherman** responded that they had to take the lowest, qualified bidder.

SEN. MOSS asked **Ms. Fagg** to give the process of QBS. **Ms. Fagg** compared the process to a knee replacement surgery verses an amputation, both would solve a bad knee but one is preferable. She said the scopes are not detailed enough and there were wide variations.

SEN. SHOCKLEY wanted to know if the QBS system was used on the leaky roof in Miles City. **Mr. Katherman** responded that they had.

SEN. ESP asked if, under **SB 237**, the agency would have to use a cost-based process. **Mr. Katherman** answered that the bill was permissive.

SEN. MANGAN entered.

Closing by Sponsor:

{Tape: 3; Side: A; Approx. Time Counter: 1.9 - 4.7}

SEN. WEINBERG noted that hospitals discuss qualifications and salary with their surgeons and architects need to be chosen just as carefully. He said that public money should be handled carefully. **SEN. WEINBERG** believed that costs should be taken into account, agencies did not have to choose the low-bid every time but price should be added to the list of criteria.

HEARING ON SB 350

{Tape: 3; Side: A; Approx. Time Counter: 5.7}

Opening Statement by Sponsor:

SEN. VICKI COCCHIARELLA (D), SD 47, opened the hearing on **SB 350**, Revise subdivision review exemptions.

{Tape: 3; Side: A; Approx. Time Counter: 5.7 - 7.5}

SEN. COCCHIARELLA said that zoning should be predictable. **SB 350** mandated that subdividers must follow the zoning laws. She believed that the bill would reduce the questions in regards to in-fill development.

Proponents' Testimony:

{Tape: 3; Side: A; Approx. Time Counter: 7.5 - 15.7}

Jim Nugent, City of Missoula, read his testimony into the record.

EXHIBIT(los39a14)

Jerry Ballas, Missoula City Council, supported the bill because zoning should play a part in subdivision. It would add an element to subdivision review and assist local governments.

Jon Wilkins, Lewis and Clark County, stated that in-fill was hurting neighborhoods and zoning should be considered in subdivisions. He believed that many people bought property because of the zoning protection.

Jani McCall, City of Billings, made a brief statement of support for Ramona Maddox, Billings city planner.

Fred Bodholt, Save our Neighborhoods, supported the bill because zoning is important to predictability. He noted that developers had to follow zoning.

Paul Sopko, City of Missoula, said that **SB 350** should be a "duh" bill. He thought it was a loophole in the law and needed to be solved.

Tammy McGill, Montana Association of Planners, supported the bill. She said that it was important that developers must conform to zoning and it would assist the land planning offices.

Alec Hansen, League of Cities and Towns, told the committee that the League of Cities and Towns approved the bill unanimously.

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

{Tape: 3; Side: A; Approx. Time Counter: 15.7 - 20.5}

SEN. ESP asked **Mr. Nugent** why other subdivision regulations did not prevent in fill. **Mr. Nugent** answered that there were numerous exemptions and developers relocated the boundary, which exempted them from subdivision laws and therefore zoning.

SEN. GEBHARDT wanted to know if the word "each" on line 19 should be an "a". **SEN. COCCHIARELLA** agreed. **SEN. GEBHARDT** asked if it made any subdivisions a zoned area. **SEN. COCCHIARELLA** stated that developers must follow zoning if it is there.

SEN. MANGAN questioned whether the surveyors were going to support the bill. **Mr. Kembel** said no.

Closing by Sponsor:

{Tape: 3; Side: A; Approx. Time Counter: 20.5 - 22.2}

SEN. COCCHIARELLA stated that predictability is important in development and zoning provided that predictability. **SEN. COCCHIARELLA** contended that the bill did not take away anyone's rights to change zoning, it just mandated that if zoning existed, developers must follow it. She thought it would curb overzealous developers.

HEARING ON SB 382

{Tape: 3; Side: A; Approx. Time Counter: 22.3}

Opening Statement by Sponsor:

SEN. JIM ELLIOTT (D), SD 7, opened the hearing on **SB 382**, Narrow use of eminent domain.

{Tape: 3; Side: A; Approx. Time Counter: 22.3 - 25.6}

SEN. ELLIOTT explained that **SB 382** would prevent the government from condemning property and then re-selling it, within ten years. He thought that it was not good public policy for the government to condemn private land and resell it for the purpose of increasing the government's tax base. He gave the committee some examples of the situation occurring. He handed out a sheet with examples of eminent domain abuse.

[EXHIBIT\(los39a15\)](#)

Proponents' Testimony:

{Tape: 3; Side: A; Approx. Time Counter: 25.6 - 27.2}

Nancy Schlepp, Montana Farm Bureau, supported the bill because of concern over agricultural land. She said that it was important to preserve range land. She called the bill proactive over reactive.

Opponents' Testimony:

{Tape: 3; Side: A; Approx. Time Counter: 27.2 - 32.2}

{Tape: 3; Side: B; Approx. Time Counter: 0.6 - 1}

Jim Nugent, City of Missoula, read his testimony.

[EXHIBIT\(los39a16\)](#)

Alec Hansen, League of Cities and Towns, opposed the bill because local governments needed to be able to use urban renewal to control and improve blight areas. He noted that **SB 382** would ruin the government's ability to redevelop property. Mr. Hansen said that **SB 382** would be a hindrance to cities and reduce the ability to preserve downtown districts. Urban renewal was a tool to redevelop and should be protected.

Jani McCall, City of Billings, stated that **SB 382** would paralyze urban renewal.

Informational Testimony: None.

Questions from Committee Members and Responses:

{Tape: 3; Side: B; Approx. Time Counter: 1 - 5}

SEN. HAWKS asked how the bill affected the public-private partnership that is used in the state. **SEN. ELLIOTT** answered that the power of eminent domain has not been used but the bill was designed to prevent any possibility of abuse.

SEN. ESP questioned whether an amendment to allow for eminent domain in the case of in-fill would be agreeable. **SEN. ELLIOTT** replied that private property was private property and whether eminent domain was used for in-fill or not, it was the same issue.

SEN. LAIBLE wanted to know what the definition of "blight" was. **Mr. Nugent** said that it was defined in statute but it was an area that needed rehabilitation.

Closing by Sponsor:

{Tape: 3; Side: B; Approx. Time Counter: 5 - 7.9}

SEN. ELLIOTT told the committee a story, the moral of which was "what is blight to some people is home to others." He did not feel that the bill would stop urban redevelopment. He said that it was a point of private property and the owner should expect to have his or her home.

HEARING ON SB 458

{Tape: 3; Side: B; Approx. Time Counter: 8}

Opening Statement by Sponsor:

SEN. KIM GILLAN (D), SD 24, opened the hearing on **SB 458**, Time for action against municipality for land use decision.

{Tape: 3; Side: B; Approx. Time Counter: 8 - 9.6}

SEN. GILLAN brought the bill on behalf of the city of Missoula. She explained that the bill would change challenges of land use decisions statute of limitations of 30 days.

Proponents' Testimony:

{Tape: 3; Side: B; Approx. Time Counter: 9.6 - 16.8}

Alec Hansen, League of Cities and Towns, supported the bill because it would provide certainty. He gave the example of a conditional use permit being granted and a lawsuit filed three months later. He said that it would be money better spent. He noted that the developer also only had thirty days to challenge as well.

Jim Nugent, City of Missoula, read his testimony.

EXHIBIT(los39a17)

Jani McCall, City of Billings, supported **SB 458** because it provided good prosecution of the law.

Tammy McGill, Montana Association of Planners, stood in support of the bill. She said that it provided a much-needed statute of limitations.

Curt Chisolm, Montana Building Industry Association, said he saw the bill as a good solution. He noted that the sword cut both ways and was an agreeable situation.

Opponents' Testimony: None.

Informational Testimony:

{Tape: 3; Side: B; Approx. Time Counter: 16.8 - 17.9}

Michael Kakuk, Montana Association of Realtors, had some questions regarding the law. He said that it was unclear when the thirty-day deadline started.

Questions from Committee Members and Responses:

{Tape: 3; Side: B; Approx. Time Counter: 17.9 - 23.2}

SEN. ESP asked about **Mr. Kakuk's** concern. **SEN. GILLAN** promised to find an amendment in the next hour.

SEN. SHOCKLEY questioned if thirty days would be better from notification of the property owner to ensure that the owner knew of the decision. **SEN. GILLAN** answered that land use decisions are noticed and she would assume that the property owner would have received notification.

SEN. MOSS and **SEN. WHEAT** exited.

SEN. ESP wanted to know how the bill applied to construction projects. **Mr. Kakuk** replied that they would work on that.

Closing by Sponsor:

{Tape: 3; Side: B; Approx. Time Counter: 23.2 - 23.9}

SEN. GILLAN told the committee that she would be working on a conceptual amendment. She noted that if there were still problems, it could be changed on the floor

SEN. O'NEIL and **SEN. SHOCKLEY** exited.

EXECUTIVE ACTION ON SB 350

{Tape: 4; Side: A; Approx. Time Counter: 0 - 1.8}

Motion/Vote: **SEN. GEBHARDT** moved that SB 350 DO PASS. Motion carried unanimously by voice vote. **SEN. MOSS**, **SEN. O'NEIL**, **SEN. SHOCKLEY**, and **SEN. WHEAT** voted aye by proxy.

EXECUTIVE ACTION ON SB 370

{Tape: 4; Side: A; Approx. Time Counter: 1.8 - 13}

Motion: **SEN. SQUIRES** moved that SB 370 DO PASS.

Discussion: **SEN. ESP** told the committee that he was voting against the bill. He said that the retirement funds were in trouble because of declining investment and additional membership. **SEN. ESP** expressed his sympathy for the detention officers but felt that the funds could handle it at the time. **SEN. MANGAN** asked if **Mr. Jenkins** had anything to do with the writing of the bill's fiscal note. **Mr. Jenkins** answered that his office did. **SEN. GILLAN** pointed out that the sheriff's fund was at ninety-five percent, which was the highest except for the judges' fund. **SEN. SQUIRES** declared that the fund was five percent unfunded. She stated that the only people that would take advantage of the bill would be the new hires. She contended that there was no reason for the Sheriff Retirement Fund to not be not actually sound and she noted that they were wanted in the fund pool. **SEN. ESP** stated that they would have to input money later. **SEN. MANGAN** pointed out that **Mr. Jenkins** had brought new information to the committee that was not reflected on the fiscal

note and **Mr. Jenkins** had input on the fiscal note. He commented that the information should have been available on the fiscal note. He said that there were numerous county commissioners in the capitol building that day and if they were strongly against the bill, they would have testified. **SEN. SQUIRES** stated that it was a fairness and equity issue and that the deputies were willing to pay extra and the sheriffs were willing to accept them into the retirement fund.

Vote: Motion that SB 370 DO PASS carried 7-4 by roll call vote with **SEN. ESP**, **SEN. LAIBLE**, **SEN. O'NEIL**, and **SEN. SHOCKLEY** voting no. **SEN. MOSS** and **SEN. WHEAT** voted aye by proxy. **SEN. O'NEIL** and **SEN. SHOCKLEY** voted no by proxy.

EXECUTIVE ACTION ON SB 237

{Tape: 4; Side: A; Approx. Time Counter: 13 - 21.6}

Motion: **SEN. ESP** moved that SB 237 DO PASS.

Motion: **SEN. ESP** moved that SB 237 BE AMENDED WITH SB023701.alk.

Vote: Motion that SB 237 BE AMENDED carried 10-1 by voice vote with **SEN. GILLAN** voting no. **SEN. MOSS**, **SEN. O'NEIL**, **SEN. SHOCKLEY**, and **SEN. WHEAT** voted aye by proxy.

Motion: **SEN. ESP** moved that SB 237 DO PASS AS AMENDED.

Discussion: **SEN. ESP** told the committee that it should be an allowable option. **SEN. HAWKS** stated that it was a Whitefish problem and the counties, cities, and towns were all against the bill. He said that the language was permissive and his experience was that only taking the lowest bid was a bad situation. **SEN. GEBHARDT** contended that allowance was needed in the law, he felt that raising the limit would work the best. He believed that the status quo would provide what they needed if the limit was higher. **SEN. LAIBLE** favored the bill because the language was permissive and just puts the bidding process on the front end of the negotiations.

Motion: **SEN. GILLAN** CALLED THE QUESTION ON SB 237.

Vote: Motion that SB 237 DO PASS AS AMENDED failed 3-8 by roll call vote with **SEN. ESP**, **SEN. LAIBLE**, and **SEN. O'NEIL** voting aye. **SEN. MOSS**, **SEN. SHOCKLEY**, and **SEN. WHEAT** voted no by proxy. **SEN. O'NEIL** voted aye by proxy.

Motion/Vote: SEN. HAWKS moved that SB 237 BE TABLED AND THE VOTE REVERSED.

EXECUTIVE ACTION ON SB 382

{Tape: 4; Side: A; Approx. Time Counter: 21.6 - 28.9}

Motion: SEN. ESP moved that SB 382 DO PASS.

Discussion: SEN. HAWKS told the committee that the situation was rare but he could foresee the need in the future. He said that he would hate to tie cities hands but that currently, he would vote no. SEN. LAIBLE supported the bill because blight was a problem and steps needed to be taken to prevent the economic and social liability. SEN. GILLAN opposed the bill. She stated that there was a due process to eminent domain and the bill was not needed. SEN. MANGAN said that if he thought working on the bill would improve it and change some minds, he would do so but he believed that several committee members were absent and it would be difficult to write amendments that would work. SEN. ESP was unsure of whether the bill just applied to urban blight or properties on the edge of town. SEN. MANGAN expressed that he was unsure as well.

Vote: Motion that SB 382 DO PASS failed 3-8 by roll call vote with SEN. ESP, SEN. LAIBLE, and SEN. O'NEIL voting aye. SEN. MOSS, SEN. SHOCKLEY, and SEN. WHEAT voted no by proxy. SEN. O'NEIL voted aye by proxy.

Motion/Vote: SEN. ESP moved that SB 237 BE TABLED AND THE VOTE REVERSED. Motion passed by voice vote with SEN. ESP, SEN. LAIBLE and SEN. O'NEIL voting no. SEN. MOSS, SEN. SHOCKLEY and SEN. WHEAT voted no by proxy. SEN O'NEIL voted aye by proxy.

EXECUTIVE ACTION ON SB 309

{Tape: 4; Side: A; Approx. Time Counter: 28.9 - 30.5}

Motion: SEN. SQUIRES moved that SB 309 DO PASS.

Substitute Motion/Vote: SEN. ESP made a substitute motion that SB 309 BE TABLED. Substitute motion carried 8-3 by voice vote with SEN. GEBHARDT, SEN. O'NEIL, and SEN. SQUIRES voting no. SEN. MOSS, SEN. SHOCKLEY, and SEN. WHEAT voted aye by proxy. SEN. O'NEIL voted no by proxy.

EXECUTIVE ACTION ON SB 253

{Tape: 4; Side: B; Approx. Time Counter: 2.1 - 6.5}

Motion: SEN. GILLAN moved that SB 253 DO PASS.

Discussion: SEN. GILLAN said that the bill was to correct a problem of taxation without representation. SEN. GEBHARDT told the committee that a property owner had the right to vote on things that involved that land, whether or not they lived on the land. He stated that there were some issues with precincts and districts but that could be worked out. SEN. HAWKS called it an "age-old problem" and there was a matter of fairness involved. He commented that it was not fair for people to vote in city elections and not pay city taxes. He noted that the bill would probably not pass Constitutional muster. SEN. SQUIRES told SEN. HAWKS that when his district started to grow, he would change his mind on the bill. SEN. MANGAN said that he did not realize that SB 253 concerned Missoula. SEN. SQUIRES replied that it dealt with Evergreen and Target Range.

Substitute Motion/Vote: SEN. ESP made a substitute motion that SB 253 BE TABLED. Substitute motion carried 8-3 by roll call vote with SEN. GEBHARDT, SEN. O'NEIL, and SEN. SQUIRES voting no. SEN. MOSS, SEN. SHOCKLEY, and SEN. WHEAT voted aye by proxy. SEN. O'NEIL voted no by proxy.

EXECUTIVE ACTION ON SB 458

{Tape: 4; Side: B; Approx. Time Counter: 6.5 - 9.3;

Comments: Tape recorder died at the end of this executive action. The recording is slightly garbled.}

Motion: SEN. GILLAN moved that SB 458 DO PASS.

Motion: SEN. GILLAN moved that SB 458 BE AMENDED.

EXHIBIT(los39a18)

Discussion: SEN. GILLAN explained her amendment.

Vote: Motion that SB 458 BE AMENDED carried unanimously by voice vote. SEN. MOSS, SEN. O'NEIL, SEN. SHOCKLEY, and SEN. WHEAT voted aye by proxy.

Motion/Vote: SEN. GILLAN moved that SB 458 DO PASS AS AMENDED. Motion carried unanimously by voice vote. SEN. MOSS, SEN. O'NEIL, SEN. SHOCKLEY, and SEN. WHEAT voted aye by proxy.

The committee took a short break to get a new recorder.

EXECUTIVE ACTION ON SB 301

{Tape: 4; Side: B; Approx. Time Counter: 9.3 - 13}

Motion: SEN. ESP moved that SB 301 DO PASS.

Motion: SEN. ESP moved that SB 301 BE AMENDED.

EXHIBIT(los39a19)

Discussion: SEN. ESP explained his amendment.

Vote: Motion that SB 301 BE AMENDED carried unanimously by voice vote. SEN. MOSS, SEN. O'NEIL, SEN. SHOCKLEY, and SEN. WHEAT voted aye by proxy.

Motion: SEN. ESP moved that SB 301 DO PASS AS AMENDED.

Discussion: SEN. LAIBLE said that he had talked to the Code Commissioner and he had no problems with the bill as amended explained his amendment. SEN. HAWKS asked for a short summery of what the bill did. SEN. ESP told him that it provided a list of what counties could do. He said that it consolidated the list into one section.

Vote: Motion that SB 301 DO PASS AS AMENDED carried unanimously by voice vote. SEN. MOSS, SEN. O'NEIL, SEN. SHOCKLEY, and SEN. WHEAT voted aye by proxy.

EXECUTIVE ACTION ON SB 167

{Tape: 4; Side: B; Approx. Time Counter: 13 - 24.2}

Motion: SEN. MANGAN moved that SB 167 DO PASS.

Discussion: SEN. MANGAN apologized to the committee because he had not completed any amendments. He told the committee that he was more than willing to go forward with the bill because he thought it was still a good idea. He said that he would not move any of the amendments that SEN. ELLIOTT proposed. SEN. MANGAN

explained that the bill was important to Great Falls and Billings.

SEN. LAIBLE acted as Chairman.

SEN. ESP asked what **SEN. ELLIOTT'S** amendments did. **SEN. MANGAN** answered that it took out funding for the bill and reduced the number of Tax Increment Finance (TIF) districts.

Motion: **SEN. ESP** moved that SB 167 BE AMENDED WITH SB016701.alh.

Discussion: **SEN. HAWKS** said that the money that would be tied up with TIF districts would take funding from schools and other facilities and programs. He thought that there would be a bigger impact to the bill and questioned whether it was fair. **SEN. MANGAN** acknowledged it was a valid point but it was a policy choice. He maintained that TIFs work but are not being utilized because the parameters were too narrow. He said that cities wanted to use TIFs more but could not. **SEN. GILLAN** opposed the amendment because it would make the bill more convoluted. She noted that if the legislature came up with a new school funding formula, it would reduce the mills. **SEN. GEBHARDT** agreed and said that without the bill, there would not be the development and so there would not be money for schools. He believed that it just invest money into TIFs that the schools would get eventually. **SEN. ESP** stated that it was giving away something that did not belong to you.

Motion: **SEN. HAWKS** CALLED THE QUESTION ON SB016701.ALH.

Vote: Motion that SB 167 BE AMENDED failed 1-10 by roll call vote with **SEN. ESP** voting aye. **SEN. MOSS**, **SEN. O'NEIL**, **SEN. SHOCKLEY**, and **SEN. WHEAT** voted no by proxy.

Vote: Motion that SB 167 DO PASS carried 10-1 by voice vote with **SEN. ESP** voting no. **SEN. MOSS**, **SEN. O'NEIL**, **SEN. SHOCKLEY**, and **SEN. WHEAT** voted aye by proxy.

ADJOURNMENT

Adjournment: 6:51 P.M.

SEN. JEFF MANGAN, Chairman

JENNIFER KIRBY, Secretary

JM/jk

Additional Exhibits:

EXHIBIT ([los39aad0.PDF](#))